

FIRST REGULAR SESSION

# SENATE BILL NO. 481

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDGEWAY.

Read 1st time February 8, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1758S.011

## AN ACT

To repeal sections 621.250 and 640.013, RSMo, and to enact in lieu thereof two new sections relating to certain appeals to be heard by the administrative hearing commission.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 621.250 and 640.013, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 621.250 and 640.013, to read as follows:

621.250. 1. All authority to hear appeals granted in chapters 260, 444, 640, 643, and 644, RSMo, and to the hazardous waste management commission in chapter 260, RSMo, the land reclamation commission in chapter 444, RSMo, the safe drinking water commission in chapter 640, RSMo, the air conservation commission in chapter 643, RSMo, and the clean water commission in chapter 644, RSMo, shall be transferred to the administrative hearing commission under this chapter. The authority to render final decisions after hearing on appeals heard by the administrative hearing commission shall remain with the commissions listed in this subsection. **The commissions listed in this subsection may render final decisions after hearing or through stipulation, consent order, agreed settlement, or by disposition in the nature of a default judgment, judgment on the pleadings, or summary determination, consistent with the rules and procedures of the administrative hearing commission.**

2. Except as otherwise provided by law, any person or entity who is a party to, or who is affected by, any finding, order, decision, or assessment for which the authority to hear appeals was transferred to the administrative

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 hearing commission in subsection 1 of this section [shall be entitled to a hearing  
19 before the administrative hearing commission by the filing of a petition] **may file**  
20 **a notice of appeal** with the administrative hearing commission within thirty  
21 days after any such finding, order, decision, or assessment is placed in the United  
22 States mail or within thirty days of any such finding, order, decision, or  
23 assessment being delivered, whichever is earlier. **The administrative hearing**  
24 **commission may hold hearings or may make recommended decisions**  
25 **based on stipulation of the parties, consent order, agreed settlement,**  
26 **or by disposition in the nature of default judgment, judgment on the**  
27 **pleadings, or summary determination, in accordance with the rules and**  
28 **procedures of the administrative hearing commission.**

29           3. Any decision by the director of the department of natural resources that  
30 may be appealed to the commissions listed in subsection 1 of section 621.052 and  
31 shall contain a notice of the right of appeal in substantially the following  
32 language: "If you were adversely affected by this decision, you may appeal to  
33 have the matter heard by the administrative hearing commission. To appeal, you  
34 must file a petition with the administrative hearing commission within thirty  
35 days after the date this decision was mailed or the date it was delivered,  
36 whichever date was earlier. If any such petition is sent by registered mail or  
37 certified mail, it will be deemed filed on the date it is mailed; if it is sent by any  
38 method other than registered mail or certified mail, it will be deemed filed on the  
39 date it is received by the administrative hearing commission.". Within fifteen  
40 days after the administrative hearing commission renders its recommended  
41 decision, it shall transmit the record and a transcript of the proceedings, together  
42 with the administrative hearing commission's recommended decision to the  
43 commission having authority to issue a final decision. The decision of the  
44 commission shall be based only on the facts and evidence in the hearing  
45 record. The commission may adopt the recommended decision as its final  
46 decision. The commission may change a finding of fact or conclusion of law made  
47 by the administrative hearing commission, or may vacate or modify the  
48 recommended decision issued by the administrative hearing commission, only if  
49 the commission states in writing the specific reason for a change made under this  
50 subsection.

51           4. In the event the person filing the appeal prevails in any dispute under  
52 this section, interest shall be allowed upon any amount found to have been  
53 wrongfully collected or erroneously paid at the rate established by the director of

54 the department of revenue under section 32.065, RSMo.

55           5. Appropriations shall be made from the respective funds of the various  
56 commissions to cover the administrative hearing commission's costs associated  
57 with these appeals.

58           6. In all matters heard by the administrative hearing commission under  
59 this section, the burden of proof shall comply with section 640.012, RSMo. The  
60 hearings shall be conducted by the administrative hearing commission in  
61 accordance with the provisions of chapter 536, RSMo, and its regulations  
62 promulgated thereunder.

640.013. [All authority to hear appeals granted in this chapter and  
2 chapters 260, 444, 643, and 644, RSMo, and to the hazardous waste management  
3 commission in chapter 260, RSMo, the land reclamation commission in chapter  
4 444, RSMo, the safe drinking water commission in this chapter, the air  
5 conservation commission in chapter 643, RSMo, and the clean water commission  
6 in chapter 644, RSMo, shall be transferred to the administrative hearing  
7 commission under chapter 621, RSMo. The authority to render final decisions  
8 after hearing on appeals heard by the administrative hearing commission shall  
9 remain with the commissions listed in this subsection.] **The administrative**  
10 **hearing commission shall have the authority to hear certain**  
11 **environmental appeals in accordance with section 621.250, RSMo.**

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